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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,942	08/23/2006	David Pelz	100M185-US1	2651
7278	7590	04/28/2009	EXAMINER	
DARBY & DARBY P.C.			LEGESSE, NINI F	
P.O. BOX 770				
Church Street Station			ART UNIT	PAPER NUMBER
New York, NY 10008-0770			3711	
			MAIL DATE	DELIVERY MODE
			04/28/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/532,942	PELZ, DAVID	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nini Legesse	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 February 2009.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) 3-12 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1, 2, and 13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**Applicant's Declaration under 37C.F.R 1.132 and response to the office action of 08/01/08 is acknowledged on 02/20/09.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pettigrew et al. (US Patent Application Publication No. 2001/0036870) in view of Koch (5,013,046).**

Pettigrew discloses a golf ball comprising two equatorial o-rings (112 as shown on Figure 1A). However, Pettigrew fails to disclose polar markings as recited in claim 1. Koch discloses polar markings that are continuous o-rings (67a as shown in figure 10a). It would have been obvious to one of ordinary skill in the art to provide the Pettigrew device with multiple polar markings as taught by Koch in order to identify multiple hit points. When these two references are combined the claimed intended use of the markings would obviously be met.

**Claims 1, 2 and 13** stand rejected under 35 U.S.C. 103(a) as being unpatentable over Koch (5,013,046) in view of over Pettigrew et al. (US Patent Application Publication No. 2001/0036870).

Koch discloses a golf ball comprising markings printed in each polar region as a continuous o-ring (67a, see figure 10a). Koch has circles that are at the poles and around the equator as shown in figure 10a. However Koch fails to disclose if the markings around the equator of the ball could be two equatorial continuous o-rings. Pettigrew is one reference that teaches the use of two equatorial o-rings (112) that meets the intended use of Applicant's recitation in claim 1. Thus, it would have been obvious to one of ordinary skill in the art to provide the Koch device with two equatorial o-rings to simplify the manufacturing process and time of the device.

***Response to Arguments and Affidavit***

Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.

In Applicant's declaration and argument it is discussed that the combination of the Pettigrew and Koch references would not provide a quantitative measure of the extent of the wobble. It is argued that neither reference disclose any mechanism for indicating the extent of side spin imparted to the ball and that there is no motivation to do so. This argument is not found persuasive because for example, Koch defines where his circles are (Fig. 10a), that is they are at the poles and around the equator, so that when you have rings around the equator, as taught by Pettigrew, you have the

invention. When Koch is modified by adding circles around the equator the circles of Koch could be used as target markings.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nini Legesse/  
Primary Examiner, Art Unit 3711